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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,987	09/07/2000	Marcel Rene Bohmer	PHN 17, 631	2245

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PHILIPS ELECTRONICS NORTH AMERICAN CORP
580 WHITE PLAINS RD
TARRYTOWN, NY 10591

EXAMINER

WILLIAMS, JOSEPH L

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/656,987

Applicant(s)

BOHMER ET AL.

Examiner

Joseph L. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Amendment C, filed 21 March 2003 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitman et al. (US 5,578,892), in view of Tsukada et al. (US 6,129,980), of record.

Regarding claim 1, Whitman ('892) discloses in figure 1a and in column 2, line 42 through column 3, line 2 an electric lamp (10) comprising a light source (16) operable to emit visible light; and a light-transmitting lamp vessel (12) which accommodates the source (16), wherein at least part of the lamp vessel (12) is provided with a light-absorbing coating (11), wherein the light-absorbing coating (11) includes a pigment which absorbs a part of the visible light (see abstract).

Whitman ('892) does not disclose the light absorbing coating comprises a network which can be obtained by conversion of an organically modified silane by means of a sol-gel process, the organically modified silane being selected from the group formed by the compounds of the following formula: $R^I Si(OR^{II})_3$, wherein R^I comprises an alkyl group or an aryl group, and wherein R^{II} comprises an alkyl group.

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Within the field of endeavor, it is desirable to provide a film, which lowers the reflection of light on a light source for the purpose of improving the visibility of the emitted light.

Further regarding claim 1, Tsukada ('980) teaches in column 2, lines 9-50 a light absorbing coating for causing a color point shift comprised of an organically modified silane being selected from the group formed by the compounds of the following formula: $R^I Si(OR^{II})_3$, wherein R^I comprises an alkyl group or an aryl group, and wherein R^{II} comprises an alkyl group for the purpose of improving the visibility of the emitted light.

The Examiner notes that the claim limitation of the network being obtained by means of a sol-gel process is drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the film of Tsukada in place of the film on the lamp of Luck for the purpose of reducing reflectance and improving the visibility of the emitted light.

Regarding claims 2 and 3, Tsukada ('980) discloses in column 2, line 60 through column 3, line 63 that R^I can comprise CH_3 and R^{II} can be comprised of CH_3 or C_2H_5 .

The reason for combining is the same as for claim 1 above.

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Regarding claim 4, Tsukada ('980) discloses in column 17, line 13 that the diameter of the pigment can be equal to or less than 50 nm.

The reason for combining is the same as for claim 1 above.

Regarding claim 5, Tsukada ('980) discloses in column 23, line 8 through column 26, line 4 (example 1), that the thickness of the film is greater than 1 micron.

The reason for combining is the same as for claim 1 above.

Regarding claim 6, Tsukada ('980) discloses that the silica is made of "fine particles" and defines fine particle to mean grain size of at least 50 nm (see column 22, lines 42-43).

The reason for combining is the same as for claim 1 above.

Regarding claims 7 and 8, Tsukada ('980) discloses in column 16, line 44 through column 17, line 16 that the pigment is an inorganic pigment, which can be formed of iron oxide.

The reason for combining is the same as for claim 1 above.

Regarding claim 10, Tsukada ('980) discloses in column 17, lines 3 and 4, the use of red pigments as fillers to affect the color shift point towards red.

The reason for combining is the same as for claim 1 above.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitman ('892) in view of Tsukada ('980) as applied to claim 7 above, and further in view of Crumley et al. (US 5,863,321).

Regarding claim 9, Whitman ('892) in view of Tsukada ('980) discloses all of the claimed limitations except for use of the mixture of iron oxide and bismuth vanadate.

Tsukada ('980) teaches that it is desirable to use color pigments in the film for the purpose of coloring the film (column 16, lines 44-46).

Crumley ('321) teaches in column 6, lines 3-35 that a mixture of iron oxide and bismuth vanadate can be used as a pigment in a film for the purpose of coloring the film.

Hence it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pigments of Crumley in the film of the lamp of Whitman and Tsukada for the purpose of coloring the film.

Response to Arguments

2. Applicant's arguments filed 21 March 2003 have been fully considered but they are not persuasive.

The Applicant has argued that the secondary reference, Tsukada ('980), does not disclose that the light absorbing coating causes a color point shift.

The Examiner respectfully disagrees. Column 16, lines 44-48 disclose that the light absorbing film is comprised of, in part, a filler which can be used to color the film,

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which would cause a color point shift of the emitted light from the display. In addition, Tsukada ('980) teaches the use of various color pigments, including red, for the filler.

The Examiner also respectively points out that the Applicant has not claimed any structural difference between the instant Application and the prior art of record. The structural formula of the light absorbing coating claimed by the Applicant is the same as that of the prior art of record. Absent a structural difference, it is the opinion of the Examiner that the coating disclosed by Tsukada ('980) can perform the claimed function of shifting the color point of the emitted light.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Williams whose telephone number is (703) 305-1670. The examiner can normally be reached on M-F (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (703) 305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

JLW 

April 24, 2003



Vip Patel
Primary Examiner
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